

III. REMARKS

In the Office Action, claims 1-24 were rejected under 35 U.S.C. 103 as being unpatentable over Ejzak (US 6,721, 565) in view of Lautenschlager (US 6,321,096), Valentine (US 6,081,510), and Forslow (US 2003/0039237) for reasons set forth in the Office Action.

With respect to the rejections under 35 U.S.C. 103, various ones of the claims are amended and the following argument is presented to distinguish the claimed subject matter from the teachings of the cited art, considered individually and in combination, thereby to overcome the rejections and to show the presence of allowable subject matter in the claims.

The examiner notes (page 3 of the Action) that Ejzak does not specifically disclose that checking RF path quality, to determine handover, is the same as checking if the mobile station is attached to the second network and transmitting to the second network. In the paragraph linking pages 3-4 of the Action, the examiner observes that all switch-over processes require that the mobile unit detach itself from the old network and attach itself to the new network (Lautenschlager, col. 5 at line 12 to col.7 at line 13, Figs. 3a and 3b). The examiner concludes that it is obvious that checking RF path quality to determine handover is the same as checking if the mobile station is attached to the second network and transmitting to the second network. The examiner notes further that a change in status, "attached" to "detached" causes a switch-over of the routing (col. 8 at lines 9-11).

It appears from the foregoing comments that the examiner believes that the description on attachment is not recited adequately in the present claims, so that the "attachment" might be read also on the field-strength issues raised in the cited art. In order to clarify this matter, the independent claims are amended to specify, in the matter of the attachment, that the attachment of the mobile station refers to formation of a mobility

management context for the mobile station. This added material finds support in the present specification (paragraph [0003], top of page 2).

In this response, new claims 25-27 are presented to set forth the aspect of the claimed subject matter directed to an integrated circuit. Support for the new independent claim 25 is provided in the present specification (page 5 lines 25-27, Fig. 3) and also the description related to figure 3 and the cited features which can be implemented as an integrated circuit. Also, support is provided in the present specification for the new claim 26 (paragraph [0016]) and the new claim 27 (paragraph [0016]). The term "integrated circuit" is disclosed in the last line of [0016]. New claim 28 depends from claim 1 and provides description of the attachment to the second network by reference to a support node (disclosed in [0003-0004] of the specification).

It is urged that the combined teachings of the cited art do not suggest the subject matter of the present claims, as may be noted by considering the arguments of the previous response in view of the present amendment, particularly to the claimed aspects relating to the attachment to a packet switched network. Argumentation from the previous response is presented below for convenience.

Ejzak does not teach a procedure for initial message transmission with network selection determining if the message is to be transmitted to a circuit-switched network or a packet-switched network, triggered in response to the need to transmit a message. The Ejzak reference is directed to handovers, and teaches that a precondition for a handover to occur is that a stable call is ongoing, see Col. 14, lines 13-14 and 18-19. Stable calls are also the starting point of all four scenarios listed in the Summary of the Invention part, namely Col. 4, at lines 25-39, 40-52, 53-64, and line 65 through line 6 of column 5. Furthermore, Col. 5, at lines 7-8, states that these scenarios are all the possible combinations foreseen by Ejzak. An understanding of the stable call requirement is provided by Ejzak also at element 714 (Fig. 7), element 814 (Fig. 8) and element 916 (Fig. 9). The existence of a stable call is also required by Ejzak for the mobile-assisted handoff, since the mobile terminal reports measurement results to the

network, Col. 11, Lines, 45-47. According to Ejzak, the network instructs the mobile to start using another system, see figure elements 718, 818 and 918 of Figs. 7, 8, and 9, respectively. If there would be no stable call, the mobile could not be instructed by the network to start using another system and the system of Ejzak would not work. The handover related features of Ejzak are not relevant for the presently claimed features related to message transmission.

Furthermore, Ejzak (Col. 14, at Lines 35-37) states that it is the system that determines that a handover is needed, not the terminal. In contrast, Lautenschlager (Abstract, and Col. 2 at lines 20-24) states that the mobile terminal would switch over to another network on its own initiative. This contradicts the teaching of Ejzak, wherein the network directs a mobile to handover. Thus, the teachings of Lautenschlager and Ejzak are incompatible, and cannot be combined.

Furthermore, Lautenschlager and Ejzak are both silent on the concept of attachment to a network providing packet-switched services, and fails to disclose the currently claimed features related to attachment. The term "attachment" is described in the present specification (as noted above on page 2 at lines 1-3), which presents an example of attachment and states: "The attachment of an MS to a SGSN refers to the formation of a mobility management context for the MS, this function being called GPRS Attach in the GPRS system." This should not be confused with a situation wherein a mobile station is inside a specific coverage area, as may be defined by RF signal strength, because the location of a mobile station within the coverage area does not determine the state of "attachment". A coverage area may have signals from plural communication networks operating under different protocols, such that the mobile station might be attached to one of the networks while being detached from a second of the networks. It is urged respectfully that the teaching of Lautenschlager is being misapplied to the present claims because a person skilled in this art would appreciate that attachment to a packet network is not the same thing as being inside a coverage area, as defined by RF field strength. Therefore, the cited RF measurements of Lautenschlager are not

relevant as regards the currently claimed checking of attachment to a network providing packet-switched services.

Furthermore, both of Lautenschlager and Ejzak fail to teach such checking of a status attachment to a network providing packet-switched services in response to a need to transmit a message.

Valentine describes a system where a "far-end modem" is sent a message (called an error message by the examiner) advising it to cease data transmission temporarily (see Col. 1, Line 65 – Col. 2, Line 9) until a "resume" message is received, see Col. 4, Lines 19-21, due to adverse radio-link conditions. This is difficult to reconcile with the requirement in Ejzak of an ongoing "stable call", and it is unclear how the modem which has been instructed to stop communicating could send the "mobile-assisted handover" measurement reports, see Ejzak (Col. 11, Lines 45-47). Thus combining Valentine with Ejzak must fail in view of the incompatibility of their respective teachings.

Ejzak, considered alone and in combination with Lautenschlager, does not teach triggering of a handover in response to the need to transmit one of the packets. Instead, a handover is triggered in response to the criteria mentioned in column 11, lines 39-41, which by way of example include poor quality signal path, load balancing among neighboring cells, as well as administrative and policy reasons. The mobility management context, which is a subject of the claimed step of checking if the mobile station is attached to the second network, is not suggested among the examples of Ejzak.

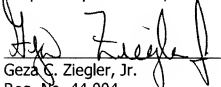
Furthermore, the mobility management context, which is a subject of the claimed step of checking if the mobile station is attached to the second network, is a valid basis for requesting (in claim 1 and other ones of the independent claims) communication via the circuit-switched services rather than the packet-switched services even if there is a strong signal transmission provided by the packet-switched services.

The claimed subject matter, is directed to a problem in systems having both packet-switched networks that support a transferring of messages, for instance GPRS networks supporting transfer of SMS text-based short messages, and other packet-switched networks that do not support a transferring of such messages. In these situations the terminal (mobile station) does not know if the current packet-switched network supports the transfer of such messages. The claimed subject matter provides for a selection of a communication network and a message transfer procedure that enables transmission of text-based messages, which are intended to be transmitted via a packet-switched network, to be transmitted also in systems that do not support short message transmission via a packet-switched network (present specification on page 3 at lines 8-15).

For all of the foregoing reasons, it is respectfully submitted that all of the claims now present in the application are clearly novel and patentable over the prior art of record, and are in proper form for allowance. Accordingly, favorable reconsideration and allowance is respectfully requested. Should any unresolved issues remain, the Examiner is invited to call Applicants' attorney at the telephone number indicated below.

The Commissioner is hereby authorized to charge payment of \$200 for four additional independent claims, \$210 for one additional independent claim and for any other fees associated with this communication or credit any over payment to Deposit Account No. 16-1350.

Respectfully submitted,



Geza C. Ziegler, Jr.
Reg. No. 44,004
Perman & Green, LLP
425 Post Road
Fairfield, CT 06824
(203) 259-1800
Customer No.: 2512

30 June 2008
Date